

### **REMARKS**

Claims 1-13 are pending in the application. Claims 1-13 are rejected. Claim 10 has been amended to correct a grammatical error. Claim 1 has been amended for clarity. Support for this amendment is found at of the specification.

Accordingly, no new matter is introduced by these amendments.

#### **Reply to the Rejection of Claim 1 under 35 U.S.C. § 112, second paragraph**

The Examiner has rejected Claim 1 as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. Specifically, the Examiner alleges that the phrase “less than about 10 weight %” in claim 1 is unclear.

Firstly, use of the term ‘about’ as recited in the claims is permissible patent claiming practice (*see*, MPEP 2173.05(b)). Considering claim 1, that claim defines the upper limit for moisture content of the film. One skilled in the art would understand the moisture content upper limit to be approximately 10 weight %. Accordingly, claim 1 as originally submitted is not indefinite. Still, in a good faith effort to expedite examination, Applicants have amended claim 1 to state “about 10 weight % or less moisture”,

It is believed these amendments and remarks overcome the Examiner’s rejection of claim 1 as being indefinite under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. Withdrawal, therefore, of this rejection is respectfully requested.

#### **Reply to the Rejection of Claims 1-13 under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 1-13 as being unpatentable over U.S. Patent No. 7,025,983 to Leung *et al.* (“Leung”). For the following reasons, applicants respectfully traverse the Examiner’s rejection of claims 1-13 as being unpatentable over Leung.

Leung discloses physiologically acceptable films, including edible films (Abstract). These edible films include pullulan as the film former and antimicrobially effective amounts of essential oils (Abstract).

According to a preferred method of producing essential oil-containing films according to Leung, (1) water-soluble ingredients are dissolved in water to form an aqueous mixture, (2) the

film forming ingredients are mixed together in powdered form to form a powdered mixture, (3) the powdered mixture is added to the aqueous mixture to form a gel; (4) stirring the gel at room temperature for some length of time; (5) forming an oil mixture of cooling agent and essential oils; (6) adding other essential oils and surfactants to the oil mixture; (7) adding the oil mixture to the gel and mixing until uniform; (8) deaerating the mixture to remove air bubbles; (9) casting the mixture onto a substrate; and (10) drying the cast mixture to form a film (col. 11, lines 45-61). (col. 3, lines 17-18; col. 5, lines 25-61; claim 1).

In contrast to Leung, the present application is directed towards films onto which a substance is placed. In one embodiment of the present application, the substance can be an encapsulated substance. In this regard, films according to the present invention enable one to deliver volatile substances wherein the encapsulant material is water soluble or oil soluble. By placing the substance onto the film rather than mixing the substance(s) together with the other ingredients while making the film, one avoids processing issues that could affect delivery of the substance (*see, e.g.*, p. 1, last paragraph – p. 2, first paragraph of the present Specification).

Further, as noted above, Leung teaches making its films by mixing all its ingredients together and then forming a film. In contrast, method claim 1 and its dependent claims 2-5 of the present invention teach making the film and then adding a substance onto the film. Nowhere does Leung teach this step of adding a substance after the film is made, or provide any motivation to do so. Accordingly, Leung does not render obvious claims 1-5.

Regarding composition claims 6-13, the Examiner alleges that it would have been obvious to one skilled in the art at the time the invention was made to encapsulate a volatile substance for the purpose of reducing evaporation of the substance. As admitted by the Examiner, Leung makes absolutely no reference to the use of encapsulated substances, particularly for the delivery of volatile substances. Leung states that its film former used in making its films (pullulan) “entraps” the oral care agents in the oral cavity to provide extended efficacy (col. 3, lines 6-9; *see also*, col. 4, lines 15-19). Accordingly, Leung provides no motivation to one skilled in the art to look to the use of encapsulated substances as Leung alleges that its invention is able to deliver volatile substances. Further, the present invention states that merely encapsulating the volatile substance may not be sufficient as processing conditions can affect the encapsulant. One skilled in the art therefore would also not learn or be motivated from

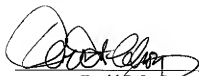
Leung to prepare films wherein the volatile substance is added to the film, rather than added in the mixture of ingredients used in making the film.

For at least these reasons, claims 1-13 are patentable over Leung. Withdrawal, therefore, of the rejection of claims 1-13 under 35 U.S.C. § 103(a) is respectfully requested.

Based on the above amendments and remarks, allowance of the claims is believed to be in order, and such allowance is respectfully requested.

Respectfully submitted,

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